

CAMPAIGN for TOBACCO-FREE Kids

NATIONAL CENTER FOR TOBACCO-FREE KIDS

June 29, 1998

MUR 4766

General Counsel
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20463

Dear General Counsel:

Pursuant to 11 C.F.R. §111.4, the National Center for Tobacco-Free Kids files this Complaint against Philip Morris Inc., RJ Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., Lorillard Tobacco Co., and United States Tobacco Company for what appears to be a violation of Federal election law, a violation which had a direct and serious impact on the June 18, 1998 Senate 57-42 vote on the Cloture petition to end the debate on S.1415, "The National Tobacco Policy and Youth Smoking Reduction Act."

Corporations are expressly forbidden under federal election laws from making "contributions" or "expenditures" in connection with federal elections and candidates are expressly prohibited from knowingly accepting contributions made by corporations. A contribution or expenditure includes direct or indirect payments or "anything of value" to influence a federal election. The Federal Election Commission has defined "anything of value" to include in-kind contributions, including advertisements. 11 C.F.R. §§ 100.7(a)(1)(iii) and 100.8(a)(1)(iv).

Based upon reports that have been widely published in the news media, only hours before Republican senators were due to vote for or against cloture on S.1415, Senator Mitch McConnell informed his colleagues in a closed door meeting that if they voted to kill the tobacco bill, the major tobacco manufacturers were promising to mount a television ad campaign to support those who voted against the bill.

When Senator McConnell reported that the *goal* of the tobacco industry's ads to be run in the Fall *after* the critical vote was to *support* and *defend* those Senators who voted to kill the bill, he clearly demonstrated that these potential ads were not issue ads, but ads intended to influence the outcome of the upcoming election.

Communications, like the ads the tobacco industry is reported to have promised Republican Senators it would run, especially when made with the cooperation, coordination, or even just the consent of, or in consultation with, or at the request or suggestion of, any candidate do not qualify under any exception to the campaign finance laws, but rather confer something of "value" that constitutes an illegal "contribution" by the tobacco industry. FEC Advisory Opinion 1988-22. See Also Clifton v. FEC, No. 96-1812 (1st Cir. June 6, 1997) (1997 WL 292145).

Rarely is the connection between a campaign contribution and a vote on a critical issue so blatantly linked as occurred in this case. In this case, the quid pro quo was clear and it is clear that it was at least communicated by Senator McConnell, the Chairman of the National Republican Senatorial Committee, to his colleagues just before a crucial vote: Vote for the tobacco industry and the tobacco industry will advertise to help you during the upcoming election.

It is the combination of the stated goal of the ads (to support and defend senators who voted with it in the upcoming election) and the coordination and/or cooperation between the tobacco industry and the senators regarding the expenditures reflected in the promised ad campaign during the upcoming election that constitutes a serious violation of the election laws.

The facts upon which this complaint are based are contained in several reputable recent media reports and not upon the personal knowledge of the complainant because the tobacco industry's promises were made and communicated in secret behind closed doors. For example:

- The *Wall Street Journal* reported on June 25, 1998:

"On the day the Senate killed comprehensive tobacco legislation, Sen. Mitch McConnell stood up at a closed-door meeting of Republican senators to deliver the good news: The tobacco industry would mount a television ad campaign to support those who voted to knock off the bill. Such ads, Mr. McConnell says now, 'would generally be helpful to people who decided to kill this bill as a big tax increase on working Americans.' The Kentucky Republican, chairman of the Senate GOP campaign committee, played a prominent role in the bill's demise last week, his colleagues say, advising Senate Majority Leader Trent Lott of Mississippi that he could eliminate the measure without fear of voter reprisal . . . And the tobacco industry's \$40 million ad campaign against the bill helped convince members that public opinion could be swayed on the issue. . . . Republicans and industry ads will paint the issue as whether voters favor 'raising taxes to enrich trial lawyer,' he says."

- Time Magazine reported in its June 29, 1998 edition similar comments from McConnell:

"In the end, it was McConnell who was most persuasive. He told Lott that things had changed since the process had begun in April. His Senate candidates were safe; in tight Senate races, such as North Carolina and Kentucky, defending tobacco would help more than hurt. Besides, McConnell argued, the industry was promising to run ads on behalf of GOP Senators to defend them against charges that they'd killed the bill.

- The Washington Post reported on June 17, 1997:

"In some states, [Republican political consultant] Murphy said, the industry is trying to give cover to conservative senators...."

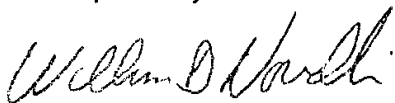
- The Washington Post reported on June 18, 1998:

"One tobacco ally said the industry assured Republican lawmakers the companies are willing to spend more money on ads between now and election day to continue its anti-tax, anti-big government message."

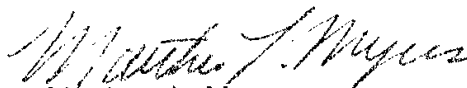
The five tobacco companies named in this complaint are the five companies who sponsored the \$40 million campaign against S. 1415 over the last several months and presumably are the companies to whom Senator McConnell referred when he spoke of the promised advertising campaign in support of candidates who voted against cloture in order to defeat this bill.

Therefore, we request that the FEC fully and promptly investigate this matter and put an end to the illegal "expenditures" by the tobacco industry on behalf of those senators who voted against cloture on S.1415.

Respectfully Submitted,



William Novelli
President

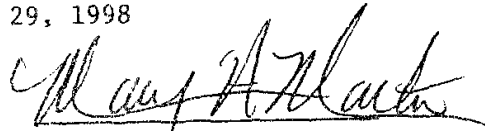


Matthew L. Myers
Executive Vice President and
General Counsel

Notary:

District of Columbia

Subscribed and Sworn to before me this June 29, 1998



Notary Public DC

My Commission Expires

My Commission Expires:
July 14, 2002

THE WALL STREET JOURNAL

INTERACTIVE EDITION

FRONT SECTION

POLITICS & POLICY

June 25, 1998



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GOP Doesn't Fear Voter Backlash From Killed Tobacco Legislation

By JEFFREY TAYLOR and PHIL KUNTZ
Staff Reporters of The Wall Street Journal

WASHINGTON -- On the day the Senate killed comprehensive tobacco legislation, Sen. Mitch McConnell stood up at a closed-door meeting of Republican senators to deliver good news: The tobacco industry would mount a television ad campaign to support those who voted to knock off the bill.

Such ads, Mr. McConnell says now, "would be generally helpful to people who decided to kill this bill as a big tax increase on working Americans." The Kentucky Republican, chairman of the Senate GOP campaign committee, played a prominent role in the bill's demise last week, his colleagues say, advising Senate Majority Leader Trent Lott of Mississippi that he could eliminate the measure without fear of voter reprisal. That thinking has become the consensus among Republicans in both the Senate and the House as they make plans for a slimmed-down tobacco bill.

GOP strategists are convinced that the party's conservative base is more likely to show up at the polls for this fall's midterm congressional election than "soccer moms" and others concerned about underage smoking. And the tobacco industry's \$40 million ad campaign against the bill helped convince members that public opinion could be swayed on the issue.

Strong Public Support for Bill

But a new Wall Street Journal/NBC News poll shows that Americans, by 56% to 39%, think the Senate should have passed the tobacco legislation. The bill would have raised cigarette prices \$1.10 a pack and expanded regulatory jurisdiction over tobacco.



See more about The
Wall Street
Journal/NBC News
poll.

And by 33% to 16%, the poll finds, Americans blame Republicans rather than Democrats for the bill's demise, while 17% say both parties are equally to blame. By 58% to 25%, the public thinks the bill was defeated because the tobacco industry used its political power rather than because the measure included a huge tax increase.

In the poll, 52% of Americans say a lawmaker's vote on tobacco would make little difference in how they vote in the fall election, but that figure is down from 63% in an April poll. And 29% now say a

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tobacco vote would make them less likely to support the lawmaker, up from 22% in April.

"The Republicans still may need to answer for their opposition to the tobacco bill," say Democratic pollster Peter Hart and his GOP counterpart, Robert Teeter, who conduct the Journal/NBC survey.

Mr. McConnell says the poll's findings don't concern him, because "the way the questions were asked is not the way the issue is going to be framed" for the election. Rather, Republicans and industry ads will paint the issue as whether voters favor "raising taxes to enrich trial lawyers," he says.

"Most of my colleagues are not fearful" of being painted as tobacco-industry pawns in the election, adds GOP Sen. Connie Mack of Florida. But Mr. Mack says it is still possible for tobacco to "emerge as an issue in the fall."

It appears that not all Republicans are as confident as their leadership, if members' fund-raising preferences are any measure. "More than half the members that I work with are declining tobacco money," while none swore off tobacco money two years ago, says Tom Hammond, a professional fund-raiser for 20 Republican House candidates.

Industry Ads Are Still Running

The tobacco industry's \$40 million advertising blitz against the tobacco bill dwarfed the famous \$14 million "Harry and Louise" health-care industry campaign against the Clinton health-care plan in 1994. The tobacco industry ran the ads in 30 to 50 TV markets, including states in which it feared senators were leaning toward supporting the bill. It continues to run an updated ad, warning that there are "some" who seek to resurrect "the big tax bill."

If it tailors the ads to aid specific members this fall, the industry would be entering the most controversial realm of campaign finance, because such spending is not limited -- and in some cases may not even be publicly disclosed -- under federal election laws. Unregulated advertising financed by private groups not officially affiliated with candidates skyrocketed in 1996, and was a major impetus for this year's so-far unsuccessful drive to overhaul fund-raising laws.

"The debate was about taxes and big government, and we're prepared to remind people of that, if necessary," says tobacco industry spokesman Scott Williams, though no final decision has been made about bolstering particular candidates in the fall.

For now, there are some indications the industry is holding back a bit on campaign donations. "I haven't seen them at any of my events this month," says Mr. Hammond, the fund-raiser. Adds Dan Morgan, another GOP fund-raiser: "I'm guessing they're holding off ... to see who their friends are."

Donations in Election Cycle

As of March 31, tobacco companies, employees and political action committees had donated \$5.3 million so far in the 1998 election cycle, according to the Center for Responsive Politics. That's more than double what they had given 15 months into the last nonpresidential election cycle, 1994, but it's also slightly below how much they gave at the same point in 1996. Tobacco donations to Republicans, who traditionally get the lion's share, have dropped off more than 10% from 1996.

The industry bought a few tables at a big fund-raising dinner for House and Senate GOP campaigns on June 16, the night before the Senate voted to kill the tobacco bill. But the industry's contribution of \$270,000 represented just 2.5% of the evening's \$10.8 million gross.

Tobacco donations proved to be a very good indicator of how senators voted on the bill. On average, senators who voted with the industry last week had received nearly a total of \$26,000 each from the industry since 1993, the Center for Responsive Politics says; senators who voted against the industry received less than \$8,000 each. But there were a healthy handful of senators who bucked the trend, including several who took in upwards of \$30,000 each but supported the bill.

The lesson for the tobacco industry may be that hard-hitting ads are more effective than campaign donations. The massive industry ad campaign before last week's Senate tobacco vote went largely unanswered by antitobacco forces. The National Center for Tobacco-Free Kids ran some TV ads featuring former Surgeon General C. Everett Koop warning viewers to "consider the source" of the tobacco ads, but far fewer than the industry ran.

Matthew Myers, the center's executive vice president, says his group plans to run more ads against Republicans who helped kill the tobacco bill as the fall elections approach. But "no one can ever counter them on their scale," Mr. Myers says. "We don't have the money to do that."

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HART/TEETI II
June 1998Study #4080--page 6
NBCWSJ

- 7 As you may know, some experts think that the federal government will have a surplus of funds in the next few years. If that happens, for which one of the following would you like to see the surplus funds used -- fix the long-term Social Security funding program, provide tax cuts for families, or increase spending on public education?

	6/98*	2/98	
Fix the long-term Social Security funding program ..	39	39	[158]
Increase spending on public education	21	33	
Provide tax cuts for families	20	10	
All of these (VOL)	6	6	
None of these (VOL)	4	3	
Not sure	1	-	

* Asked of one-half the respondents (FORM A).

- 8a As you may know, the Senate recently defeated a bill that would impose an additional one dollar and ten cents per pack tax on cigarettes, restrict the advertising and marketing of cigarettes, and use the extra revenue to pay for children's health care programs or tax cuts. Do you feel that the Senate should or should not have passed this bill?

The Senate should have passed the bill	56	[159]
The Senate should not have passed the bill	30	
Not sure	5	

- 8b In your opinion, who do you think deserves the most blame for failing to pass recent tobacco legislation -- the Democrats in the Senate or the Republicans in the Senate? **

Democrats in the Senate	18	[160]
Republicans in the Senate	33	
Both equal (VOL)	17	
Neither (VOL)	5	
Not sure	29	

** Asked of one-half the respondents (FORM B).

- 8c Why do you think the tobacco bill was defeated in the U.S. Senate--because it included a huge tax increase that would have led to billions in higher government spending, or because the tobacco industry used its political power and influence to oppose the bill. *

It included a huge tax increase	25	[161]
The tobacco industry used its political power	58	
Neither (VOL)	4	
Some of both (VOL)	6	
Not sure	7	

* Asked of one-half the respondents (FORM A).

- 8d If your member of Congress opposed comprehensive tobacco legislation, would this make you more likely or less likely to vote for this person, or would it make little difference either way?

	6/98**	4/98	
More likely to vote for	15	13	[162]
Less likely to vote for	29	22	
Make little difference either way	52	63	
Not sure	4	2	

** Asked of one-half the respondents (FORM B).

HART/LEETER
June 1998Study #4090--page 7
NBC/WSJ

- 8c. In your opinion, is the cigarette industry doing all it can do to produce cigarettes that are not harmful to health, or do you think they could do more?

	6/98**	5/99'	
Cigarette industry doing all it can do.....	9	37	[163]
Cigarette industry could do more	83	34	
Not sure	8	28	

** Asked of one half the respondents (FORM B)

' Comparative data comes from a survey conducted in May 1990 by the Gallup Organization.

- 9a. Generally speaking, do you think of yourself as a Democrat, a Republican, an independent, or something else? (IF "DEMOCRAT" OR "REPUBLICAN," ASK:) Would you call yourself a strong (Democrat/Republican) or not a very strong (Democrat/Republican)? (IF NOT SURE, CODE AS "NOT VERY STRONG DEMOCRAT/REPUBLICAN.") (IF "INDEPENDENT," ASK:) Do you think of yourself as closer to the Republican Party, closer to the Democratic Party, or do you think of yourself as strictly independent? (IF "NOT SURE," CODE AS "STRICTLY INDEPENDENT.")

Strong Democrat	17		
Not very strong Democrat	11		[164]
Independent/lean Democrat	11	Skip to Q9c	
Strictly independent	20		
Independent/lean Republican	9		
Not very strong Republican	11	CONTINUE	
Strong Republican	13		
Other	5	Skip to Q9c	
Not sure/nothing	3		

(ASK ONLY OF REPUBLICANS IN Q.9a.)

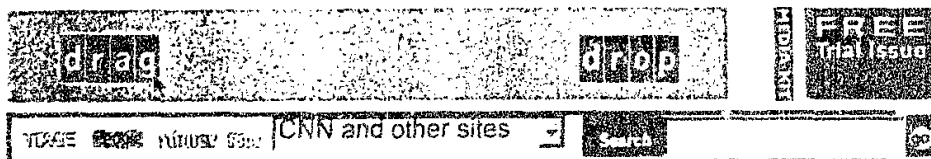
- 9b. Let me read you a list of people who might seek the Republican nomination for president in the year 2000. If you were voting today in the next Republican primary for president, which one of the following candidates would you vote for?

(IF "NOT SURE," ASK:) Well, which way do you lean?

THIS TABLE HAS BEEN RANKED BY THE HIGHEST PERCENTAGE

	All Republicans						
	6/98	4/98	1/98	9/97	7/97	4/97	
Texas Governor George Bush	34	40	26	24	20	24	[165-166]
Elizabeth Dole	18	NA	14	14	15	16	
Jack Kemp	10	NA	16	14	14	17	
Dan Quayle	9	14	6	7	10	9	
Steve Forbes	7	11	10	11	7	8	
Newt Gingrich	5	5	5	4	5	NA	
John Ashcroft	2	3	NA	NA	NA	NA	
Lamar Alexander	2	3	4	2	5	3	
None/other (VOL)	4	5	-	6	6	5	
Not sure	8	10	13	9	7	9	

* An "NA" indicates that the person was not included in the list of potential candidates for that particular survey. Potential candidates who do not appear on the current list but were included previously and received less than 5% of the vote are included in the percentage for "none/other."



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NATION

JUNE 29, 1998 VOL. 151 NO. 25

Up In Smoke

The tobacco bill almost made it until the Republicans decided to blow it off

By NANCY GIBBS

Like any smoky gentlemen's club, the U.S. Senate includes some members the others wish had never got in. Too pushy. Always wanting to change things, even bedrock traditions like due respect for the marriage of money and power. So when the deeply scarred, highly disruptive Republican John McCain stood on the Senate floor last Wednesday, stared down his colleagues and accused them of honoring their debts to Big Tobacco over their obligations to "those who can't care for themselves in this society, and that includes our children," the few G.O.P. statesmen present sat silent while Democrats across the aisle stood and applauded. McCain walked out of the chamber.

How did it happen that one of the decade's most ambitious pieces of legislation, which had so defied the odds that it seemed on the brink of passing, could have died so suddenly last week? McCain's landmark tobacco bill would have raised at least \$516 billion over the next 25 years from higher cigarette taxes while increasing regulation, capping liability and fighting teen smoking. President Clinton was staking the finale of his presidency on moving the bill--not to mention the \$65.5 billion worth of education and health programs in his budget that were pegged to new revenues. A majority of Senators supported some kind of legislation, and the public had clearly signaled its disgust for a mendacious industry that had been exposed in a series of court cases for specifically targeting children in its advertising to ensure a steady supply of lifetime customers.

There was no mood change in the country, only one in the narrow political calculations of its major political players: a Republican Congress with a slim majority desperate to

play to the activists who will turn out in the fall, a White House too distracted and decimated by scandal to fight and an electorate too content to complain much.

Certainly the breathtaking \$40 million ad campaign by the tobacco industry left its mark on those voters who were paying attention; just as the health-insurance industry recast Clinton's health-care initiative four years ago as a bureaucratic monster, the tobacco industry successfully reframed the legislation as a Big Government, big-spending, tax-hiking mess. But that effort alone could not have worked if a lot of politicians had not sat down and done the math and found that the poll numbers did not add up the way they had long expected. In the months leading up to the midterm elections, when only the party's hard-core base of supporters can be counted on to turn up. Republicans are more concerned with the priorities of the social conservatives and the business community than with a broader public that doesn't seem to be paying much attention anyway.

Most calculating of all is Senate majority leader Trent Lott, the man who allowed the bill to get as far as it did--and the man who ultimately killed it. Lott's willingness to work with Clinton in years past had produced a balanced budget, a chemical-weapons treaty and a reformed welfare system. This time, cutting a deal on a tobacco bill began to look like his "least worst option." He remembered well how Clinton and the Democrats had humiliated Bob Dole after Dole told Katie Couric that smoking might not be addictive. If the Republicans were seen to be blocking antismoking legislation at a time when the tobacco industry was by far the biggest soft-money donor to the G.O.P., they'd be pummeled by the White House and Democrats in the midterm elections.

When the wrestling began earlier this spring, even Lott's close ally Mitch McConnell, from Kentucky tobacco country, was telling him he had to pass something. McConnell hated the McCain bill. He called it "a turkey" in public and worse in private. But he advised Lott to push the process forward rather than get run over by it. Lott went to McCain and asked him to craft a bill in the Commerce Committee, knowing he was the man to get an ugly job done. McCain had credibility with Democrats and the White House and if the process exploded in McCain's face, that wouldn't be such a disaster either. A lot of McCain's colleagues would be happy to see that happen to the man with a habit of exposing pork-barrel projects, pushing campaign-finance reform and generally making life less comfortable for his Republican colleagues.

McCain muscled his bill out of committee with a 19-to-1 vote after several days of bruising negotiations. He took

the original \$368 billion deal the state attorneys general had struck with the tobacco industry last year and went much further. McCain's version would have cost cigarette makers some \$516 billion over 25 years, with more legal liability and serious penalties if teen smoking didn't actually drop. Lott followed the process closely and constantly reassured McCain that he was supporting his chairman. "Trent Lott has been straight with me throughout this process," McCain said repeatedly. Privately, those close to the process who wanted a bill counted Lott as a tacit ally.

In fact, Lott's complicity created all kinds of problems for him within his own party. Some members hated the prospect of losing tobacco money: farm-state Senators worried about their tobacco farmers; tax haters like Phil Gramm were against tax increases in general. Pulled in opposite directions, Lott wiggled his way through the process, some days describing the McCain bill as big and bad and unworkable, the next day suggesting it should survive. "Just be patient," he told a proponent recently. "We'll get there." He promised proponents that the bill would have a much better chance at passing if they allowed amendments like Gramm's, which would cut the "marriage penalty" in the tax code, and Senators Paul Coverdell and Larry Craig's, which would provide new antidrug funding. Those amendments passed two weeks ago, and suddenly it seemed that the McCain bill might defy the odds and clear the Senate.

But a different drama was unfolding in private. On June 9, at the regular Tuesday lunch of Senate Republicans in the Mansfield Room of the Capitol, conservatives started passing out copies of a new survey by G.O.P. pollster Linda DiVall that showed that voters rejected the McCain bill 57% to 34%. Her findings on tobacco were startling--and exactly what some conservatives, and the tobacco companies, wanted to hear: when given the right message, respondents preferred a candidate who placed a higher priority on fighting illegal drug use than on raising cigarette taxes to fight teen smoking--and didn't like anything that looked like the return of Big Government.

By the end of that week, Republicans all over the Hill who opposed the McCain bill were talking about the DiVall poll. Never mind that the survey had been partly funded by the tobacco industry and the questions had been written in a way that tarred the bill. "If this is a crisis in America," said Gramm, "America doesn't know it." Flying with Lott to Barry Goldwater's funeral, Speaker Newt Gingrich had also made it clear how desperately the House wanted to avoid a big fight with its base supporters before November.

In the end, it was McConnell who was most persuasive. He told Lott that things had changed since the process

had begun in April. His Senate candidates were safe; in tight Senate races, such as in North Carolina and Kentucky, defending tobacco would help more than hurt. Besides, McConnell argued, the industry was promising to run ads on behalf of G.O.P. Senators to defend them against charges that they'd killed the bill. "We can walk away from this," he told Lott. }

G.O.P. Senators held a special conference in Lott's private offices Wednesday morning. From the moment Lott started the meeting, it became apparent to McCain that it had been called in order to choose a procedure for killing his bill. But McCain gave it one last try. "This has become a Republican bill!" McCain argued. "Are we going to say no to a tax cut and no to funding for the drug war? Are we going to say no to the two highest priorities in the Republican Congress?" The answer was still yes. "We're pulling it down, John," Lott told a deflated McCain.

In a lusciously cynical switch, the amendments that various G.O.P. Senators had tacked on to make the bill more palatable now made it easier to deride as a huge, mangled monument to Big Government. And so Lott spun in place and called for a vote on whether to let the bill come to the floor, knowing full well that McCain did not have the 60 votes he would need. And with that, any chance of passing a comprehensive bill died, stalling the engine that was meant to power the last two years of the Clinton presidency.

No single domestic-policy issue has consumed so much of Clinton's public time and attention, though in the larger context of this turbulent season, that is not saying much. Since January there have been two White Houses: the one that handles scandal and the one that handles everything else. The only problem with that survival strategy, as last week's vote made clear, is that there isn't much else. For all his shiny approval ratings, Clinton has been foiled time and again in moving anything through Congress, from IMF funding and voluntary national standards for student testing to campaign-finance reform and U.N. dues. A tobacco deal was supposed to show that Clinton was still in the game, while also funding programs for child care and education that he had laid out in January. That's why Clinton had been so willing to compromise on everything from tax cuts to liability limits.

Lott believes the President could have got a deal if he really wanted one. According to a source close to him, Lott began telling lobbyists last year that they had better get Clinton on board if they wanted a deal. "We're not gonna walk the plank alone," Lott told them. The two men spoke over the phone on occasion, but most of Lott's contact was with chief of staff Erskine Bowles--someone Lott "likes and trusts." The President remained

disengaged, which surprised Lott as he watched Clinton's window of opportunity closing fast.

Now it's not just Republicans who have declared themselves in no mood to deal. Democrats on the Hill, who had acceded to Bowles' pleas to accept things they hated, like the marriage-penalty tax cut, found themselves burned when the Republicans walked out anyway. Their only hope for regaining their majority in November--and it's a slim one--is in getting voters riled against a Republican majority that happens to be enjoying some of its highest approval ratings ever. Democrats are relishing the prospect of labeling the Republicans in November as captives of Big Tobacco and a do-nothing bunch of laggards. Within 24 hours, their pollsters were arguing that the G.O.P. had badly misjudged public sentiment, that even if the ads had turned people against this bill, more than two-thirds of voters still want some bill. If the G.O.P. thinks the polls show the public won't punish them, says a White House political strategist, "they're getting snowed by the tobacco lobby."

In the first 48 hours after the deal collapsed, the President made guarded comments as if still looking for a deal. Fighting has always gone against Clinton's basic nature; which instincts usually had him looking for the third way, and if that doesn't work, the fourth, fifth and sixth. At this moment of simmering scandal, it also works against Clinton's survival instincts. As his former chief of staff Leon Panetta put it, the President is feeling particularly cautious now because "he's got to maintain a good relationship with the Congress that could ultimately be his judge" if Starr ends up handing it the whole Lewinsky investigation.

By Friday the President was sounding more bareknuckled, denouncing Republican proposals for a stripped-down bill as "a charade." The Senators, he said, "voted not to implement a program that can save a million lives a year. It was a vote against our children and for the tobacco lobby. It's as simple as that." The goal for him now is to inflict the maximum political pain on the Republicans without totally killing any prospect of a deal. But a political campaign for a new bill requires focus, which is something this White House has largely lacked during the second term, and particularly since the Lewinsky scandal broke open in January. Between managing an Asian financial crisis, nuclear tests in India and Pakistan and ethnic conflicts in Kosovo, the strategy is to book his days so fully that he never appears bogged down in scandal. Recent weeks have seen him planting flowers in Harpers Ferry, Va., talking to the Delaware assembly on education, discussing census sampling techniques at a Houston community center, dedicating a new institute at Walden Woods and studying tidal pools in Monterey, Calif. And, of course, raising money for

Democrats almost everywhere. They now have a rich issue to add to their political war chests.

--Reported by Jay Branegan, James Carney, John F. Dickerson and Karen Tumulty /Washington

Forecast of the Political Fallout

CLINTON He must prove that the substance of his presidency doesn't end here; if he can't pass a tobacco bill that 69% of voters want, what's left?

THE G.O.P. It has appeased the base, but will the move activate the moderates who wanted a bill? Killing it could backfire in November

time-webmaster@pathfinder.com

Clinton Suffer Major Defeat on Tobacco

By JOHN F. HARRIS
and CECI CONNOLLY
Washington Post Staff Writers

6/18/98

WP
A19

President Clinton's plan for 1998 was to make tobacco an achievement, not an issue.

As of last night, that plan—like so many of Clinton's expectations for the second term of his presidency—was due for a rewrite. As comprehensive anti-smoking legislation hit a wall on Capitol Hill, Clinton for now had lost the most important item on his domestic agenda, and was already implementing a fall-back strategy of trying to make Republicans pay for their opposition in the 1998 congressional elections.

Some Democrats last night said this is fine with them. Casting Republicans as tools of the tobacco industry, they said, promises to be a staple of fall Democratic campaigns and may help them regain control of the House of Representatives.

But such a strategy is by all evidence not fine with Clinton. For months, senior aides have been telling reporters that he devoutly wanted broad legislation aimed at curbing youth smoking to pass and become part of his legacy. He told aides he wanted a victory, not a campaign slogan. He sent his chief of staff to Capitol Hill to try to cut a deal. And, in recent weeks, he showed every sign of being willing to compromise with Republicans on tax cuts and other issues to move a bill.

But the bipartisan model that last year worked for Clinton on such subjects as the balanced-budget accord fell flat. Now, Clinton is going to have to juggle his budget proposal to account for about \$10 billion in new domestic spending—including initiatives to fund smaller class sizes and low-income child care subsidies—that were to be funded with money from tobacco legislation.

And, perhaps most importantly, he will have a far harder time deflecting speculation that his ongoing legal woes have diverted his policy agenda. Administration officials and congressional Democrats yesterday acknowledged that most of the items left on Clinton's plate—such as a minimum wage increase and a "Health Care Bill of Rights" regulating health maintenance organizations—are far less likely to become law than they are to become "wedge issues" against Republicans this fall.

Clinton and chief of staff Erskine B. Bowles yesterday both pledged to keep tobacco legislation alive by trying to attach tobacco legislation as an amendment to other bills. But, if such parliamentary legerdemain fails, Clinton said opponents should pay a political cost.

"I certainly hope there will be, and there should be," he told reporters in a brief appearance last evening in the White House press room. "I think that there are those who believe there won't be because the public has been treated to \$40 million of unanswered advertising by their allies. And they believe that the opinion that may be held in certain selected districts or whatever today is the one that will hold at election day. I don't believe that's true."

At least some Republicans fear Clinton may be right. "They really have defined the first issue of the 1998 election," said former representative Vin Weber, a Republican advising anti-tobacco activists. "Unfortunately, unless something changes, Republicans will be the pro-tobacco party and Democrats will be the anti-tobacco party."

Weber said the \$40 million advertising blitz by the five major tobacco companies gave the GOP a "false sense of security.... They think they stood up and opposed an increase in the size and cost of government."

Democratic pollster Mark Mellman agreed: "Taking money from tobacco companies and opposing this bill is a more potent negative in a campaign than being for flag burning and against the balanced budget." The pollster, who has conducted national surveys on tobacco, added, "The public still supports a tobacco tax increase and thinks spending money on certain kinds of programs is a good use of a tobacco tax."

But tobacco industry spokesman Scott Williams said the political landscape has changed from the days when Democrats such as Clinton used tobacco against the GOP. "Washington entered the debate saying it was about kids and it wasn't," he said. "It didn't work now and it won't work in November."

One tobacco ally said the industry assured Republican lawmakers the companies are willing to spend more money on ads between now and election day to continue its anti-tax, anti-big government message.

"There would be a willingness to not let the record be distorted about what happened in Washington," said this strategist. "The industry advertising campaign has been accurate and I don't think anyone is willing to let that be distorted."

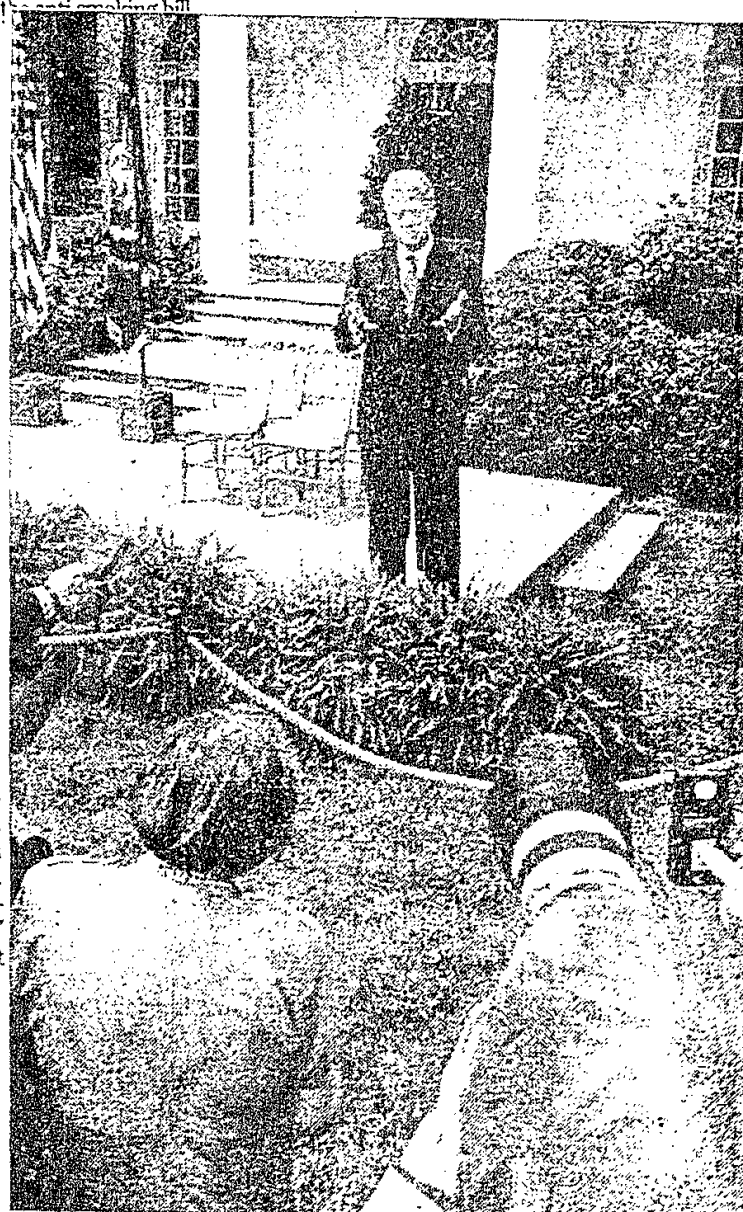
Several political analysts said the tobacco debate may have more of an impact in individual races, rather than along party lines. In tobacco-growing states, such as Kentucky and North Carolina, voters are likely to reward the lawmakers who fought

"There are no huge national implications," said Dan Sallick, spokesman for the Democratic Congressional Campaign Committee. "It will play out in a handful of races."

But that may be enough for Democrats, who need to pick up 11 seats to win control of the House.

There was some grumbling that Clinton could have done more to pass the legislation.

"They made a fundamental miscalculation," said one Democratic consultant who did not wish to be named. "It was the same lesson they should have learned from health care: Strike when the iron's hot. They thought time was their friend, time was their enemy."



President Clinton, whose chief of staff, Erskine B. Bowles, vowed a "fight to the finish" on tobacco bill, talks to reporters in Rose Garden.

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Tobacco's Ad Blitz Felt in Senate as GOP Sets Caucus

Big Tobacco's Ad Blitz Felt in Senate Debate

By SAUNDRA TORRY
and HELEN DEWAR
Washington Post Staff Writers

The tobacco industry's unprecedented \$40 million, eight-week radio and TV ad barrage to defeat the national tobacco bill is beginning to make a dent in the Senate debate at a crucial moment, some senators say.

As Senate Republicans headed today toward a closed-door showdown meeting on the bill, the enormous ad campaign, which seeks to portray the bill as a tax-and-spend measure, appears to have made an impact by emboldening the bill's opponents and, perhaps, by intensifying pressure on wavering senators, according to several senators and political consultants.

The broadcasting blitz, which began April 18, has hit local markets as far-flung as Montgomery, Ala., and Missoula, Mont. The nation's five major tobacco companies have purchased time in 30 to 50 markets each week, and on CNN nationally for the past three weeks, according to an industry spokesman. That campaign has been buttressed with three rounds of print ads in major national newspapers, including *The Washington Post* and *USA Today*, where full-page ads cost more than \$63,000 each.

The industry "may have made some gains," said Sen. John McCain (R-Ariz.), the bill's chief sponsor. "They're bound to, with the amount of money they're spending."

President Clinton was concerned enough in recent days to attack the ads as "a bunch of hooey" and assert that the industry is attempting to distract attention from its complicity in misleading the nation about the dangers of smoking.

Polls on public support for the bill are at odds, and senators, depending on their position, have cited the starkly different findings of various surveys. Overall, the mood in the Senate yesterday seemed subdued and uncertain.

This much is clear: The industry's effort to defeat the bill has been enormous. Now in its ninth week, the ad blitz has far surpassed other campaigns to defeat congressional action, including the well-known "Harry and Louise" campaign that helped kill the Clinton health plan in 1994 and cost the Health Insurance Association of America about \$14 million. Sources familiar with the tobacco industry's strategy confirmed the \$40 million figure.

An ad buy of that size in a few weeks rivals that of such giants as Toyota or Honda, who, according to a top ad executive, spend about \$300 million a year on television spots.

The impact of the ads is harder to gauge, as debate on the complex bill has dragged into its fourth week. The measure, which would give the federal government broad control over tobacco products and raise the price of cigarettes by at least \$1.10 per pack in the next five years, has become mired as the Senate has added tax cuts, anti-drug provisions and limits on attorneys fees. Today, the bitterly divided Republicans are scheduled to hold a private caucus to determine their course. While the politics cut across the usual divides, most conservatives oppose the bill and moderate Republicans tend to favor it.

McCain said he will urge fellow Republicans to force a final vote. Senate Majority Leader Trent Lott (R-Miss.) has not indicated what he wants in the way of action, though many senators believe that he could push the bill—or a version of it—to passage if he chose to.

One of the biggest questions is how it will play politically if Republicans—who have received millions of dollars in tobacco contributions in recent years—move to kill the legislation, which is favored by Democrats and public health advocates.

The findings of polls done for the White House and public health groups are at odds with GOP polls. Yesterday, a poll released by ENACT, a public health coalition, found registered voters supporting the bill by a 2-to-1 margin. The latest poll by the nonpartisan Pew Research Center found similar support on the broader issue of the government's effort to rein in the tobacco industry.

But when Republican pollster Linda Dival asked voters whether supporters of the tobacco bill are mainly seeking to cut teen smoking or to get additional tax revenue, 69 percent said they were seeking tax revenue. Some GOP senators this week pounced on the poll as evidence that the public opposes the bill.

The theme of huge, new taxes to expand government has echoed for weeks in the industry's commercials. Its latest offering shows a Christmas tree in front of the Capitol, as a voice tells listeners, "It's the season of giving in Washington, but remember it's your taxes they're giving away."

The campaign has ranged far and wide, running, for instance, in 29 states this week. Industry spokesmen have declined to divulge the total cost or location of their ads.

But public health groups, surveying their members, found ads in Alabama, Arizona, Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Oregon, Pennsylvania, North and South Carolina, Tennessee, Utah, Vermont and Wisconsin. In Baltimore, the ads were on every network affiliate; in Atlanta, one popped up on the final episode of "Seinfeld," according to the American Cancer Society. Full-page ads ran in the *Amsterdam News*, an African American weekly in New York, and in the *Argus Leader*, a newspaper in North Dakota, according to the American Lung Association.

Republican political consultant Mike Murphy speculated that the strategy is "to go where the pressure points are," such as states where senators are up for reelection or Iowa, a key presidential primary state. In some states, Murphy said, the industry is trying to give cover to conservative senators who oppose the bill or force wavering senators to think there might "be a political price to pay for supporting higher taxes."

The White House disputes that the campaign has been that effective. Sen. Phil Gramm (R-Tex.) dismissed the ads as unnecessary. "The American people never bought into the notion that this [bill] was just directed at stopping teenage smoking. They saw it for what it was: as tax-and-spend, pure and simple."

Staff writer John F. Harris
contributed to this report.

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